

AMENDED IN SENATE JULY 8, 1999
AMENDED IN ASSEMBLY MAY 27, 1999
AMENDED IN ASSEMBLY MAY 18, 1999
AMENDED IN ASSEMBLY APRIL 6, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 496

Introduced by Assembly Member Leach

February 18, 1999

An act to amend Section 54957.5 of, and to add Sections 6254.22 and 54956.87 to, the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

AB 496, as amended, Leach. Public records: health care service plans.

(1) Under the California Public Records Act, certain public records are required to be made available for public inspection.

This bill would exempt from public disclosure, for a period of 3 years after the contract is fully executed, the records of a health care service plan governed by a county board of supervisors that relate to provider rate or payment determinations, allocation or distribution methodologies for provider payments, formulae or calculations for these payments, and contract negotiations with health care providers for alternative rates. However, the bill would

provide that these exemptions shall not prevent access to any records by the Joint Legislative Audit Committee, *or by the Department of Corporations in the exercise of specified powers.*

(2) Existing law, the Ralph M. Brown Act, relating to open meetings of legislative bodies of local agencies, provides that any writings distributed to all or a majority of the members of a legislative body in connection with a matter subject to discussion or consideration at a public meeting are disclosable public records under the California Public Records Act unless specifically exempted.

The bill would provide that the transmission of specified health care service plan information or records to the board of supervisors does not constitute a waiver of exemption from disclosure.

(3) The Ralph M. Brown Act requires that the meetings of the legislative body of a local agency be conducted openly, with specified exceptions.

This bill would provide that a county board of supervisors as the governing body of a health plan may hold a closed session solely for discussion or taking action on health plan trade secrets.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6254.22 is added to the
2 Government Code, to read:
3 6254.22. Nothing in this chapter or any other
4 provision of law shall require the disclosure of records of
5 a health plan that is licensed pursuant to the Knox-Keene
6 Health Care Service Plan Act of 1975 (Chapter 2.2
7 (commencing with Section 1340) of Division 2 of the
8 Health and Safety Code) and that is governed by a county
9 board of supervisors, whether paper records, records
10 maintained in the management information system, or
11 records in any other form, that relate to provider rate or
12 payment determinations, allocation or distribution
13 methodologies for provider payments, formulae or



1 calculations for these payments, and contract
 2 negotiations with providers of health care for alternative
 3 rates for a period of three years after the contract is fully
 4 executed. The transmission of the records, or the
 5 information contained therein in an alternative form, to
 6 the board of supervisors shall not constitute a waiver of
 7 exemption from disclosure, and the records and
 8 information once transmitted to the board of supervisors
 9 shall be subject to this same exemption. The provisions of
 10 this section shall not prevent access to any records by the
 11 Joint Legislative Audit Committee in the exercise of its
 12 powers pursuant to Article 1 (commencing with Section
 13 10500) of Chapter 4 of Part 2 of Division 2 of Title 2. *The*
 14 *provisions of this section also shall not prevent access to*
 15 *any records by the Department of Corporations in the*
 16 *exercise of its powers pursuant to Article 12*
 17 *(commencing with Section 1399.80) of Chapter 2.2 of*
 18 *Division 2 of the Health and Safety Code.*

19 SEC. 2. Section 54956.87 is added to the Government
 20 Code, to read:

21 54956.87. (a) Notwithstanding any other provision of
 22 this chapter, the records of a health plan that is licensed
 23 pursuant to the Knox-Keene Health Care Service Plan
 24 Act of 1975 (Chapter 2.2 (commencing with Section
 25 1340) of Division 2 of the Health and Safety Code) and
 26 that is governed by a county board of supervisors,
 27 whether paper records, records maintained in the
 28 management information system, or records in any other
 29 form, that relate to provider rate or payment
 30 determinations, allocation or distribution methodologies
 31 for provider payments, formulae or calculations for these
 32 payments, and contract negotiations with providers of
 33 health care for alternative rates are exempt from
 34 disclosure for a period of three years after the contract is
 35 fully executed. The transmission of the records, or the
 36 information contained therein in an alternative form, to
 37 the board of supervisors shall not constitute a waiver of
 38 exemption from disclosure, and the records and
 39 information once transmitted to the board of supervisors
 40 shall be subject to this same exemption.

1 (b) Notwithstanding any other provision of law, the
2 governing board of a health plan that is licensed pursuant
3 to the Knox-Keene Health Care Service Plan Act of 1975
4 (Chapter 2.2 (commencing with Section 1340) of
5 Division 2 of the Health and Safety Code) and that is
6 governed by a county board of supervisors may order that
7 a meeting held solely for the purpose of discussion or
8 taking action on health plan trade secrets, as defined in
9 subdivision (c) of Section 32106 of the Health and Safety
10 Code, shall be held in closed session. The requirements of
11 making a public report of action taken in closed session,
12 and the vote or abstention of every member present, may
13 be limited to a brief general description without the
14 information constituting the trade secret.

15 (c) The governing board may delete the portion or
16 portions containing trade secrets from any documents
17 that were finally approved in the closed session held
18 pursuant to subdivision (b) that are provided to persons
19 who have made the timely or standing request.

20 (d) Nothing in this section shall be construed as
21 preventing the governing board from meeting in closed
22 session as otherwise provided by law.

23 (e) The provisions of this section shall not prevent
24 access to any records by the Joint Legislative Audit
25 Committee in the exercise of its powers pursuant to
26 Article 1 (commencing with Section 10500) of Chapter 4
27 of Part 2 of Division 2 of Title 2. *The provisions of this*
28 *section also shall not prevent access to any records by the*
29 *Department of Corporations in the exercise of its powers*
30 *pursuant to Article 12 (commencing with Section*
31 *1399.80) of Chapter 2.2 of Division 2 of the health and*
32 *Safety Code.*

33 SEC. 3. Section 54957.5 of the Government Code is
34 amended to read:

35 54957.5. (a) Notwithstanding Section 6255 or any
36 other provisions of law, agendas of public meetings and
37 any other writings, when distributed to all, or a majority
38 of all, of the members of a legislative body of a local
39 agency by any person in connection with a matter subject
40 to discussion or consideration at a public meeting of the

1 body, are disclosable public records under the California
2 Public Records Act (Chapter 3.5 (commencing with
3 Section 6250) of Division 7 of Title 1), and shall be made
4 available upon request without delay. However, this
5 section shall not include any writing exempt from public
6 disclosure under Section 6253.5, 6254, 6254.7, or 6254.22.

7 (b) Writings that are public records under subdivision
8 (a) and that are distributed during a public meeting shall
9 be made available for public inspection at the meeting if
10 prepared by the local agency or a member of its
11 legislative body, or after the meeting if prepared by some
12 other person.

13 (c) Nothing in this chapter shall be construed to
14 prevent the legislative body of a local agency from
15 charging a fee or deposit for a copy of a public record
16 pursuant to Section 6257.

17 (d) This section shall not be construed to limit or delay
18 the public's right to inspect or obtain a copy of any record
19 required to be disclosed under the requirements of the
20 California Public Records Act (Chapter 3.5
21 (commencing with Section 6250) of Division 7 of Title 1).
22 Nothing in this chapter shall be construed to require a
23 legislative body of a local agency to place any paid
24 advertisement or any other paid notice in any
25 publication.

